S.B. Civil Misc. Appeal No.1481/2006

Union of India and another.
vs.
Smt. Prasanni Devi and another.

Date : 9.10.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. Manoj Bhandari, for the appellants.
Mr. MP Pareek, for the respondent no.1.

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Heard learned counsel for the parties.

This appeal is directed against the order dated 10.12.2003 by which the learned District Judge, Hanumangarh allowed the application filed by the respondent no.1 – widow of Ram Singh under Section 372 of the Indian Succession Act.

The court below held that the applicant/respondent no.1 is the legally wedded wife of deceased Ram Singh, therefore, she is entitled to get the succession certificate for the amount lying with the appellants.

Learned counsel for the appellant submits that deceased Ram Singh was employed in Railway administration and he disclosed the name of his successor as Kartar Singh, who was his son. However, Kartar Singh also died. The respondent no.1 is claiming herself to be wife of Ram Singh but he is second wife. However, learned counsel for the appellants admitted that the first wife also has died.

According to learned counsel for the appellants, as per the Railway Rules, it is the duty of the Railway administration to pay the amount to the successor of the employee and as per the record of Railway administration, Ram Singh's successor was his son Kartar Singh and after the death of Kartar Singh, his successors are entitled to receive the amount. It is also submitted that as per the appellant's record, Ram Singh had no wife named Prasanni Devi – respondent. It is also submitted that the respondent was second wife and, therefore, she was not entitled to any amount.

I considered the submissions of learned counsel for the appellants and perused the facts of the case and the reasons given by the court below.

Ram Singh died on 29.2.1992. The respondent no.1 submitted petition under Section 372 of the Indian Succession Act in the year 2000 wherein the Union of India as well as the Railways was impleaded as party. The respondent no.1 gave her statement and produced another witness AW1 Ram Chandra. According to the respondent no.1, Ram Singh's first wife died and before retirement of Ram Singh, the respondent no.1 married to Ram Singh. The respondent no.1 produced copy of ration card (Ex.2A), post retirement complimentary pass (Ex.3), order no.OAH 213/99 dated 18.4.2000 (Ex.4) as well as will dated 5.12.1987 (Ex.5). The respondent no.1 also produced one certificate issued by Northern Railway as Ex.7.

It will be worthwhile to mention here that the respondent no.1 submitted a petition for obtaining succession certificate in the Court for obtaining bank deposit amount and the succession certificate was issued in her favour on 22.3.1996. The court below after considering the voluminous documentary evidence and oral evidence held that the respondent no.1 is widow of deceased Ram Singh and, therefore, she is entitled to be declared as successor. Before that, notices were published to inform the general public also. The total amount lying with the railway administration as on 1.7.2003 was Rs.1,88,736/-.

In view of the above, the court below granted the succession certificate on the basis of the evidence on record and particularly in view of the fact that the appellant did not produce any evidence nor any person filed any caveat against the grant of succession certificate to the respondent no.1 before the court below.

It will be further relevant to mention here that deceased Ram Singh's son disclosed by him before his employer has also died. In view of the above, it was a case of uncontested claim raised by the respondent no.1.

In view of the above discussion, I do not find any merit in this appeal and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya